

OFFICE OF THE MONITOR

NUNEZ, ET AL. V. CITY OF NEW YORK, ET AL.

Steve J. Martin
Monitor

Anna E. Friedberg
Deputy Monitor

1+1 646 895 6567 | afriedberg@tillidgroup.com

April 26, 2024

VIA ECF

The Honorable Chief Judge Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10006

Re: Nunez, et al. v. City of New York, et al., 11-cv-5845 (LTS) (JCF)

Dear Chief Judge Swain,

We write to respectfully submit a proposed order regarding the reports the Monitor will file in 2024 as described in the Monitor's April 18, 2024 report at pages 169 and 170. For the reasons outlined in the Monitor's April 18, 2024 report, the Monitoring Team respectfully requests the Court enter the attached order. The Monitoring Team has consulted with all Parties and they have reported that they do not object to the entry of this Order.

We appreciate the Court's attention to this matter.

Sincerely,

s/ Steve J. Martin
Steve J. Martin, *Monitor*
Anna E. Friedberg, *Deputy Monitor*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK NUNEZ, et al.,

X

Plaintiffs,

:

- against -

:

CITY OF NEW YORK, et al.,

:

Defendants.

:

----- 11 Civ. 5845 (LTS)(JCF)

X

UNITED STATES OF AMERICA,

:

Plaintiff-Intervenor,

:

- against -

:

CITY OF NEW YORK and NEW YORK CITY
DEPARTMENT OF CORRECTION,

:

Defendants.

:

----- X

[PROPOSED] ORDER

1. *Monitor's Compliance Assessment - Modification to § G, ¶5(b) of the Action Plan:* The Action Plan, § G, ¶ 5(b) shall be modified to include the language in bold below:

Given the Monitor's findings in the Monitor's March 16, 2022 Special Report, (pages 63 to 65), and subsequent reports on **October 27, 2022, February 3, 2023, April 3, 2023, April 24, 2023, May 26, 2023, June 8, 2023, July 10, 2023, August 7, 2023, October 5, 2023, November 8, 2023, November 30, 2023, December 8, 2023, December 22, 2023, February 26, 2024, and April 18, 2024** the Monitor's assignment of compliance ratings for each provision of the Consent Judgment (required by § XX, ¶ 18 of the Consent Judgment) and the First Remedial Order are suspended for the time period covering January 1, 2022 to **June 30, 2024**, except for those provisions incorporated into this Order and the provisions listed below (collectively "select group of provisions").

- i. The Monitor shall assign compliance ratings, required by § XX, ¶ 18 of the Consent Judgment, for the following provisions from the Consent Judgment and the First Remedial Order:

1. Consent Judgment § IV. (Use of Force Policy), ¶ 1;
2. Consent Judgment § V. (Use of Force Reporting & Tracking), ¶¶ 2 & 22;
3. Consent Judgment § VII. (Use of Force Investigations), ¶¶ 1 & 9(a);
4. Consent Judgment § VIII. (Staff Discipline and Accountability), ¶¶ 1, 3(c) & 4;
5. Consent Judgment § X. (Risk Management) ¶ 1;
6. Consent Judgment § XII. (Screening and Assignment of Staff), ¶¶ 1 to 3;
7. Consent Judgment § XV. (Safety and Supervision of Inmates Under the Age of 19), ¶ 1, 12 and 17;

8. First Remedial Order § A. (Initiatives to Enhance Safe Custody Management, Improve Staff Supervision, and Reduce Unnecessary Use of Force), ¶¶ 1 to 4, & 6; and
 9. First Remedial Order § C. (Timely, Appropriate, and Meaningful Staff Accountability), ¶¶ 1, 2, 4 & 5.
2. Monitor's Report: The Monitor shall file the following reports:
- a. *June 27, 2024:* This report will provide an update on the current state of affairs, the ongoing work related to the *Nunez* Court's Orders. This Report will not include compliance ratings.
 - b. *November 21, 2024:* This report will include the compliance assessment of the *Nunez* Court Orders for the period January 1, 2024 to June 30, 2024, pursuant to Action Plan, § G, ¶ 5(b) as modified by this Order. This report will also include a discussion of the current state of affairs and, the ongoing work related to the *Nunez* Court's Orders.

SO ORDERED this _____ day of _____, 2024

LAURA TAYLOR SWAIN
Chief United States District Judge